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UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

PROGRESSIVE CASUALTY
INSURANCE COMPANY

Plaintiff,

v.

FEDERAL DEPOSIT INSURANCE
CORPORATION, AS RECEIVER OF
SILVER STATE BANK; COREY L.
JOHNSON; DOUGLAS E. FRENCH;
GARY A. GARDNER; and TIMOTHY S.
KIRBY

Defendants.

Case No. 2:12-cv-00665-KJD-PAL

JOINT STIPULATION AND ORDER
TO EXTEND TIME FOR DISCOVERY
AND RELATED DEADLINES

Fourth Request

1 Now comes Plaintiff Progressive Casualty Insurance Company (“Progressive”) and
 2 Defendants Federal Deposit Insurance Corporation, as Receiver of Silver State Bank (“FDIC-R”),
 3 Corey L. Johnson, Douglas E. French, and Gary A. Gardner (collectively the “Ds & Os”), by and
 4 through their undersigned counsel, and respectfully request that this Court enter an order extending
 5 the time for the parties to conduct discovery in this matter, along with related deadlines.¹ In support
 6 of this request, the parties state as follows:

7 **I. Background**

8 This is an insurance coverage action arising out of a claim that the FDIC-R has brought
 9 against the Ds & Os (the “FDIC-R Action”).² On April 20, 2012, Progressive filed its complaint in
 10 the captioned action. Progressive seeks a declaration that a directors and officers insurance policy
 11 (the “Progressive Policy” or the “Policy”) it issued to Silver State Bank (“SSB” or the “Bank”)
 12 provides no coverage for the FDIC-R Action.³

13 On August 31, 2012, Progressive and the Ds & Os submitted a Supplemental Joint
 14 Submission Regarding Discovery Plan and Scheduling Order [Doc. 66]. That same day, the FDIC-
 15 R submitted a Supplemental Submission Regarding Discovery Plan and Scheduling [Doc. 65]. On
 16 September 18, 2012, the Court entered an Order [Doc. 71] addressing the parties’ supplemental
 17 scheduling submissions (the “Scheduling Order”). On November 12, 2012, the parties filed a Joint
 18 Stipulation and Order to Extend Time for Discovery and Related Deadlines [Doc. 74], which the
 19 Court entered on November 19, 2012 [Doc. 75] (the “Amended Scheduling Order”). On May 15,
 20 2013, the parties filed a Second Joint Stipulation and Order to Extend Time for Discovery and

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 22 ¹ Mr. Kirby, who remains a named defendant in this action, is deceased.

23
 24 ² The FDIC-R Action is *Federal Deposit Insurance Corporation, as Receiver of Silver State*
Bank v. Johnson, et al., No. 2:12-cv-00209-KJD-PAL (D. Nev.).

25 ³ The Progressive Policy is Directors & Officers / Company Liability Insurance Policy for
 Financial Institutions No. 0007849-04, which Progressive issued to the Bank and other Named
 Insureds for the Policy Period from May 21, 2007 to May 21, 2010.

1 Related Deadlines [Doc. 92], which the Court entered on May 17, 2013 [Doc. 93]. On September
2 13, 2013, the parties filed a Third Joint Stipulation and Order to Extend Time for Discovery and
3 Related Deadlines [Doc. 103]. On November 5, 2013, the Court entered the current scheduling
4 order [Doc. 113].

5 **II. Future Discovery and Requested Extension**

6 The parties respectfully refer the Court to their Third Joint Interim Status Report [Doc. 128]
7 (the “Third Report”), which they filed on January 3, 2014, and the recitation therein of the case
8 status, discovery to date, and anticipated future discovery. Subsequent to filing the Third Report,
9 and pursuant to this Court’s order in the action captioned *Progressive Casualty Insurance Company*
10 *v. Delaney, et al.*, No. 2:11-cv-00678-LRH-PAL (“Sun West”), representatives of Progressive, the
11 FDIC-R, and the FDIC as Receiver for other failed banks participated in a meeting on January 24,
12 2014 to discuss Progressive’s review and production of electronically stored information (“ESI”) in
13 connection with the pending declaratory judgment actions, including this matter. Shortly thereafter,
14 on January 29, 2014, Progressive and the FDIC as Receiver for Sun West Bank filed in the Sun
15 West action a Joint Status Report Regarding ESI. For the Court’s convenience a copy of this report
16 is included herewith as Exhibit A.

17 On February 7, 2014, representatives of Progressive, the FDIC-R, and the FDIC as Receiver
18 for other failed banks participated in a telephone conference to further discuss issues raised during
19 the January 24 meeting and a subsequent, January 28, 2014, letter authored by Dickstein Shapiro,
20 counsel for the FDIC in many of the pending declaratory judgment actions, including Sun West.
21 The parties anticipate further discussions regarding ESI in advance of the status conference
22 scheduled in the Sun West action on February 25, 2014.

23 In light of the discovery that remains to be completed in this matter, including the
24 production and review of ESI and the depositions referenced by the parties in their Third Report, the
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1 parties respectfully stipulate to the following extension of the current deadlines in this matter and
2 respectfully request that the Court enter an order to this effect:

Item	Current Deadline	Extended Deadline
Fourth Interim Status Report	N/A	April 3, 2014
Discovery Deadline	March 3, 2014	June 2, 2014
Dispositive Motions	April 2, 2014	July 2, 2014
Joint Pre-Trial Order	May 2, 2014	August 1, 2014

III. Conclusion

For the reasons stated above, the parties respectfully request that this Court enter an order extending the deadlines as set forth herein.

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1 Respectfully submitted this 10th day of February, 2014.

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1 **IT IS SO ORDERED**

2 Dated this _____ day of _____, 2014

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5 **United States Magistrate Judge**

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